IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMM. FOR JUDGMENT NO.720 OF 2003

IN

SUMM.SUIT NO.1224 OF 2003

M/s Century Textiles & Inds Ltd ... Plff

versus

M/s Arvind Enterprises & ors .. Defts

Mr M.L.Bansal for Plff

Ms Jayshree Manjrekar i/b Nappioni & Co for Defts

CORAM : D.G. KARNIK, J

DATED : 25th April 2005.

P.C:-

1. Heard learned counsel for the parties. Learned counsel for the defendants reports no instructions.

2. Learned counsel for the defendants admits the receipt of the Summons for Judgment. However, states that the defendants have not instructed her to file any reply. The defendants has not filed an application for leave to defend nor filed any

affidavit in reply. In the circumstances, the averments made in the plaint are deemed to be accepted.

3. Learned counsel for the plaintiff hands in the original documents. The documents are taken on record and collectively marked A.

4. I have perused the plaint and the documents filed on record. The plaintiff sold and supplied to the defendants the goods. The defendants issued a cheque for Rs.3,68,309/-. However, the cheque when presented for payment was dishonoured. The plaintiff has filed on record the dishonoured cheque. After giving credit to the part payment made by it, the plaintiff has filed the suit for the recovery of the balance sum. In the absence of any affidavit in reply, the plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure. Hence, Summons for Judgment is made absolute and suit of the plaintiff is decreed as under :

> " The defendants shall pay to the plaintiff a sum of Rs.2,59,085/- together with interest on the principal sum of Rs.2,19,564/- at 9 % p.a.

from the date of the suit till payment and all costs of the suit.

Issue court fee refund certificate as per rules.

D.G.KARNIK, J